IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 582 (SS) of 2007

1. Roshan Lal Uniyal, S/o Sri Murari Lal, presently working as Account Clerk, Nagar Palika Parishad, New Tehri, Tehri Garhwal.

2. Bhakti Prasad Saklani, S/o Sri Kashi Ram Saklani, presently working as Clerk, Nagar Palika Parishad New Tehri, Tehri Garhwal.

…….Petitioner.

Versus

1. State of Uttarakhand through Secretary, Nagar Panchayat, Uttarakhand Shashan, Dehradun.

2. District Magistrate, Tehri Garhwal.

3. Nagar Palika Parishad, Tehri District-Tehri Garhwal.

……..Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri A.M. Saklani and Sri A.B. Upadhyay, learned counsel for the petitioners, Sri H.M. Raturi, learned Standing Counsel for State of Uttarakhand on behalf of respondent nos. 1 and 2, and Sri H.S. Rawal, learned standing counsel for respondent no. 3.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself,

By means of this writ petition, the petitioner has prayed for the following reliefs:

I. Issue a writ, order or direction in the nature of Mandamus directing the respondents to promote the petitioners according to their seniority.

II. *Issue a writ, order or direction in the nature of Mandamus directing the respondents to decide the representation of the petitioners dated 05.05.2007 and 09.05.2007 (Annexure no. 9 and 9A)*

III. *Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*

IV. *Award the cost of the petition to the petitioners.*

The stand of the petitioners is that petitioners, who were initially appointed in Nagar Palika, Tehri, were sent on deputation to Nagar Panchayat, Chamba. Since the posts were not created in Nagar Panchayat, Chamba, petitioners were repatriated from Nagar Panchayat, Chamba. However, Nagar Palika, Tehri did not accept the services of the petitioners, consequently, writ petition no. 1196 (SS) of 2006 was filed by the petitioners.

In the aforesaid writ petition, this court on 07.09.2006 passed order directing the Nagar Palika, Tehri to allow the petitioners to work and function as a Clerk in the office of Nagar Palika Parishad, Tehri and the salary shall be paid according to the relevant rule from Nagar Palika Parishad, Tehri, till further orders.

In pursuance to court's order, petitioners are working in Nagar Palika Parishad, Tehri and now they are claiming promotion on the post of Assistant Accountant.

No cause of action has arisen as on today for making this prayer. No post of Assistant Accountant is vacant in the respondent department and there is no advertisement for the said post. Petitioners may apply for the post of Assistant.

Accountant, if the same is advertised or the same is going to be filled by way of promotion. In that circumstance, the respondents may consider the candidature of the petitioners, if they are eligible for the post. No further order is required to pass at this moment.

With this direction, the writ petition as well as interim relief application is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J)

May 25, 2007
SKSHARMA